

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JENNIFER IRENE BROWN,

Petitioner,

v.

CIVIL ACTION NO. 1:18-01407

WARDEN, FPC ALDERSON,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Aboulhosn submitted to the court his Findings and Recommendation on September 17, 2019, in which he recommended that the court deny Petitioner's Application under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody (ECF Nos. 1 and 2) and remove this case from the court's active docket.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge Aboulhosn's Findings and Recommendation. The failure of any party to file such objections within the time allowed constitutes a waiver of

such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Objections to the Proposed Findings and Recommendation were due by October 15, 2019. Neither party filed any objections to the Magistrate Judge's Findings and Recommendation within the requisite time period or the extended time period.

The court would like to further substantiate the Magistrate Judge's findings in one respect. Petitioner's second claim - which was not addressed by the Respondent in its Response, see ECF No. 6 - was that the BOP policy resulting in petitioner's ineligibility for sentence reduction and early release was unconstitutionally void for vagueness per Johnson v. United States, 135 S. Ct. 2551 (2015). Magistrate Judge Aboulhosn's PF&R cites a plethora of case law from other district courts holding that BOP regulations and policies are not subject to void-for-vagueness Johnson challenges. See ECF No. 8, at 14-15. Since the PF&R was filed in this case, the Fourth Circuit has issued a ruling on this exact issue, holding that an inmate cannot challenge a BOP Program Statement or other BOP internal guidance as being void for vagueness. Wilborn v. Mansukhani, 2019 WL 5856427, at *6 (4th Cir. Nov. 8, 2019). Therefore, the findings and recommendation of the PF&R are further substantiated.

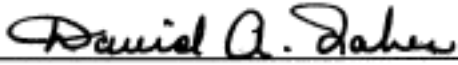
Accordingly, the court adopts the Findings and Recommendation of Magistrate Judge Aboulhosn as follows:

1. Petitioner's Application under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody is **DENIED**;
2. This action is **DISMISSED**; and
3. The Clerk is directed to remove this case from the court's active docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and unrepresented parties.

IT IS SO ORDERED this 21st day of November, 2019.

ENTER:



David A. Faber
Senior United States District Judge